

Message Text

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ACTION IO-10

INFO OCT-01 EA-06 ISO-00 L-02 SSO-00 NSCE-00 USIE-00

INRE-00 CIAE-00 DODE-00 PM-03 H-01 INR-07 NSAE-00

NSC-05 PA-01 RSC-01 PRS-01 SP-02 SS-15 DPW-01 ACDA-05

AF-06 ARA-06 EUR-12 NEA-09 /094 W

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FM USMISSION GENEVA

TO SECSTATE WASHDC NIACT IMMEDIATE 361

INFO AMEMBASSY BERN PRIORITY

AMEMBASSY SAIGON PRIORITY

USMISSION USUN NEW YORK PRIORITY

USDEL JEC PARIS PRIORITY

C O N F I D E N T I A L GENEVA 0611

EO 11652: GDS

TAGS: ICRC, PARM, VS, VN, PFOR

SUBJ: PRG ISSUE AT LAW OF WAR CONFERENCE

REF: GENEVA 603

1. THE ALGERIAN DRAFT RESOLUTION ON THE PRG ISSUE (REFTTEL) IS A VARIATION OF THE BOTH-OR-NEITHER FORMULA IN MADAME BINH'S LETTER OF DECEMBER 1974 TO SWISS PRESIDENT GRABER. PRG SUPPORTERS HAVE THUS CHOSEN A TACTIC TRANSPARENTLY DESIGNED TO COVER THE ISSUE OF PRG ENTRY, DECIDED LAST YEAR, WITH THE "NEW" FEATURE OF ALLEGED PARITY WITH THE GVN. IT IS ABSOLUTELY ESSENTIAL THAT COUNTRIES WHICH MIGHT SUPPORT US ON THE PROCEDURAL ISSUE OF RULE 32 VERSUS RULE 35 PARA 4 BE AWARE THAT THE ALGERIAN DRAFT RESOLUTION (WHICH HAS MOSTLY COMMUNIST CO-SPONSORS) IS NOT "NEW" AND THAT THE BASIS ON WHICH WE SOUGHT THEIR SUPPORT IS PRECISELY THE ISSUE RAISED.

2. THE "NEW" ELEMENT IS FRAUDULENT. GVN INVITED AS
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A PARTICIPANT IN THE CONFERENCE AND ITS CREDENTIALS

ACCEPTED, AND NO PROCEDURE EXISTS FOR THE EXPULSION OF THE GVN. SINCE THE GVN IS ALREADY THERE, PURPORTING TO INVITE IT AGAIN HAS ABSOLUTELY NO EFFECT. THE ONLY EFFECT OF THE ALGERIAN DRAFT RESOLUTION, THEREFORE, IS TO PROPOSE THE ENTRY OF THE PRG. THIS PROPOSAL, HAVING BEEN FOUGHT AND DECIDED LAST YEAR, CLEARLY FALLS WITHIN RULE 32, AND WE PLAN TO PRESS THIS CASE IN THE STRONGEST POSSIBLE TERMS.

3. AS A MATTER OF TACTICS, WE HAVE TENTATIVELY DECIDED ON FOLLOWING COURSE OF ACTION. DURING DISCUSSION OF ALGERIAN DRAFT RES, A FRIENDLY DEL WILL MAKE A POINT OF ORDER TO INQUIRE OF THE CHAIR THAT VOTING MAJORITY-- TWO-THIRDS (RULE 32) OR SIMPLE MAJORITY (RULE 35(4))-- APPLIES TO VOTE ON ALGERIAN PROPOSAL. RULE 21 PROVIDES: "DURING THE DISCUSSION OF ANY MATTER, A REPRESENTATIVE MAY RISE TO A POINT OF ORDER, AND THE POINT SHALL BE IMMEDIATELY DECIDED BY THE PRESIDENT IN ACCORDANCE WITH THE RULES OF PROCEDURE. A REPRESENTATIVE MAY APPEAL AGAINST THE RULING OF THE PRESIDENT. THE APPEAL SHALL IMMEDIATELY BE PUT TO THE VOTE AND THE PRESIDENT'S RULING SHALL STAND UNLESS THE APPEAL IS APPROVED BY A MAJORITY OF THE REPRESENTATIVES PRESENT AND VOTING. A REPRESENTATIVE RISING TO A POINT OF ORDER MAY NOT SPEAK ON THE SUBSTANCE OF THE MATTER UNDER DISCUSSION." IN THEORY, THEREFORE, CONFERENCE CHAIRMAN SHOULD RULE, AND RULING WOULD BE SUBJECT TO CHALLENGE BY MAJORITY VOTE. IT IS IN THIS VOTE THAT RULE 32 VERSUS RULE 35(4) ISSUE WOULD BE PRESENTED. HOWEVER, IF GRABER IN CHAIR, WE HAVE REASON TO BELIEVE THAT, DESPITE TEXT OF RULE 21, GRABER WILL REFUSE TO MAKE ANY RULING AND FIND SOME WAY TO THROW ISSUE OF WHICH VOTING MAJORITY RULE APPLIES DIRECTLY TO CONFERENCE.

4. OUR OPPONENTS HAVE OBLIQUELY ACKNOWLEDGED THE STRENGTH OF OUR ARGUMENT ON THE PROCEDURAL ISSUE BY DISGUIISING THEIR PROPOSAL IN THIS WAY. THEIR DISCOMFORT OVER THE OBVIOUS APPLICABILITY OF RULE 32 SHOWS THROUGHOUT THE DRAFT RESOLUTION. THEY RESORT TO THE CAMOUFLAGE OF SUGGESTING PARITY BETWEEN THE CONFIDENTIAL

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GVN AND PRG, AN IRRELEVANT PROPOSAL GIVEN THE GVN'S STATUS AS A PARTICIPANT, BECAUSE THAT IS THE ONLY WAY WE CAN PLAUSIBLY HIDE AN ISSUE WHICH THEY TACITLY ADMIT WAS CLOSED LAST YEAR.

5. ACTION REQUESTED: WE STRONGLY URGE THE DEPT TO ISSUE AN IMMEDIATE INSTRUCTION TO POST IN ALL COUNTRIES OTHER THAN THOSE THAT HAVE REGISTERED SUPPORT FOR RULE 35.

THESE POSTS SHOULD BE ASKED TO MAKE A FOLLOW-UP DEMARCHE TO THEIR HOST GOVERNMENTS, IN ORDER TO MAKE IT CLEAR THAT WE HOPE FOR THEIR SUPPORT ON RULE 32. THE HOST GOVERNMENTS SHOULD BE REQUESTED TO CONFIRM THEIR INSTRUCTIONS TO THEIR DELEGATIONS ON THIS BASIS. THE POINT SHOULD BE MADE THAT THE QUESTION POSED BY THE ALGERIAN RESOLUTION IS EXACTLY THE ISSUE WHICH WAS DECIDED LAST YEAR. POSTS THAT HAVE NOT YET MADE A DEMARCHE SHOULD BE ASKED TO DO SO AT ONCE, LINKING THE ABOVE ARGUMENTS TO THOSE IN THE ORIGINAL INSTRUCTION.

6. THE DEMARCHES MUST BE MADE ON MONDAY, FEBRUARY 3, FOR THE VOTING COULD TAKE PLACE THE NEXT DAY.
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